IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2996 OF 2006

Barkat Ali Jivabhai Baradia .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.Rajendra Sorankar for applicant

Ms.M.M.Deshmukh, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 16th August 2006

P.C.

. Heard Mr.Sorankar for applicant and A.P.P. for prosecution.

2. Perused the application and the annexures

thereto.

3. From a perusal of these materials it is apparent that the dispute between the parties arises purely out of a Development Agreement. The complainant, has pursuant to some disputes arising out of the alleged refusal of the applicant to vacate and handover portion of the premises for development, filed a complaint alleging offences punishable under section 406 and 420 of the I.P.C. The applicant is apprehending arrest in M.C.R.No.4 of 2006 of Vakola police station. Applicant’s application for anticipatory bail was rejected by the trial court. This is how the present application is filed.

4. Apart from the materials produced, additionally, Mr.Sorankar upon taking instructions from the applicant, makes a statement that the applicant is willing to refund

the amount of Rs.36.50 lakhs which was received pursuant to the agreement with the complainant. In my view, the disputes arising out of the agreement/MOU for to development at site are not matters which could be made subject matter of criminal proceedings. Prima facie, this is a case of breach of obligations of parties under the same, so also, a civil suit at the instance of the present applicant is pending. In these circumstances, in my view, applicant deserves pre-arrest bail. Accordingly, following order:-

i) In the event of the arrest of the applicant in connection with M.C.R.No.4 OF 2006 registered with Vakola Police Station, the applicant shall be enlarged on bail in the sum of Rs.50,000/- with one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will attend

the Vakola police station once a week on every Friday between 5.00 p.m. and 7.00 p.m. Applicant to surrender his passport to the I.O.

iii) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/ investigating agency. The applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of

trial

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)